

NOTE: As of 10/01/00 PSOB'S BENEFIT INCREASED TO \$151,635.00

PUBLIC SAFETY OFFICERS' DEATH BENEFITS
CHAPTER 46-SUBCHAPTER XII-PART A
[TITLE I-PART L-SUBPART 1]

USC § 3796 [Sec. 1201] Payment of death benefits

(a)Amount; recipients. In any case in which the Bureau of Justice Assistance (hereinafter in this subchapter referred to as the "Bureau") determines, under regulations issued pursuant to this subchapter, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of \$100,000, adjusted in accordance with subsection (h) of this section, as follows:

- (1) if there is no surviving child of such officer, to the surviving spouse of such officer;
- (2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;
- (3) if there is no surviving spouse, to the child or children of such officer in equal shares; or
- (4) if none of the above, to the parent or parents of such officer in equal shares.

(b)Benefits for permanent and total disability. In accordance with regulations issued pursuant to this subchapter [part], in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, the same benefit in any year that is payable under subsection (a) of this section in such year, adjusted in accordance with subsection (h) of this section, to such officer: Provided, that the total annual benefits paid under this subsection may not exceed \$5,000,000. For the purpose of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary: Provided further, that these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.

(c)Interim benefit payment. Whenever the Bureau determines upon showing of need and prior to final action that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Bureau may make an interim benefit payment not exceeding \$3000 to the individual entitled to receive a benefit under subsection (a) of this section.

(d)Deduction of interim payment. The amount of an interim payment under subsection (c) of this section shall be deducted from the amount of any final benefit paid to such individual.

(e)Repayment of interim payment; waiver. Where there is no final benefit paid, the recipient of any interim payment under subsection (c) of this section shall be liable for repayment of such amount. The Bureau may waive all or part of such repayment, considering for this purpose hardship which would result from such repayment.

(f)Reductions from final benefit payment. The benefit payable under this subchapter [part] shall be in addition to any other benefit that may be due from any other source, except—

- (1) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-622); or
- (2) benefits authorized by section 8191 of Title 5. Such beneficiaries shall only receive benefits under such section 8191 that are in excess of the benefits received under this subchapter.

(g)Execution or attachment prohibited. No benefit paid under this subchapter [part] shall be subject to execution or attachment.

(h)Consumer Price Index adjustment. On October 1 of each fiscal year beginning after June 1, 1988, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a) of this section, to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

(i)Amount payable determined as of date of death. The amount payable under subsection (a) of this section with respect to the death of a public safety officer shall be the amount payable under subsection (a) of this section as of the date of death of such officer.

(j)Limitations on benefits.

- (1) No benefit is payable under this subchapter with respect to the death of a public safety officer if a benefit is paid under this subchapter with respect to the disability of such officer.
- (2) No benefit is payable under this subchapter with respect to the disability of a public safety officer if a benefit is payable under this subchapter with respect to the death of such public safety officer.

42 USC § 379a [Sec. 1202] Limitations on benefits

No benefit shall be paid under this subchapter [part]—

- (1) if the death or catastrophic injury was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death or catastrophic injury;
- (2) if the public safety officer was voluntarily intoxicated at the time of his death or catastrophic injury;
- (3) if the public safety officer was performing his duties in a grossly negligent manner at the time of his death or catastrophic injury;
- (4) to any individual who would otherwise be entitled to a benefit under this subchapter if such individual's actions were a substantial contributing factor to the death or catastrophic injury of the public safety officer; or
- (5) to any individual employed in a capacity other than a civilian capacity.

42 USC § 3796a-1 [Sec. 1203] National programs for families of public safety officers who have died in line of duty

The director is authorized to use no less than \$150, 000 of the funds appropriated for this subchapter [part] to maintain and enhance national peer support and counseling programs to assist families of public safety officers who have died in the line of duty.

42 USC § 3796b [Sec. 1204] Definitions

As used in this subchapter [part]—

- (1) "catastrophic injury" means consequences of an injury that permanently prevent an individual from performing any gainful work;
- (2) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—
 - (i) 18 years of age or under;
 - (ii) over 18 years of age and a student as defined in section 8101 of Title 5; or
 - (iii) over 18 years of age and incapable of self-support because of physical or mental disability;
- (3) "firefighter" includes an individual serving as an officially recognized or designated member of a legally organized volunteer fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew.
- (4) "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by-
 - (i) a post-mortem blood alcohol level of .20 per centum or greater; or
 - (ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death; or resulting from drugs or other substances in the body;
- (5) "public agency" means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing; and
- (6) "public safety officer" means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, or rescue squad or ambulance crew.

42 USC § 3796c

[Sec. 1205] Administrative provisions

- (a) Rules, regulations, and procedures. The Bureau is authorized to establish such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this subchapter [part]. Rules, regulations, and procedures issued under this subchapter [part] may include regulations governing the recognition of agents or other persons representing claimants under this subchapter before the Bureau. The Bureau may prescribe the maximum fees which may be charged for services performed in connection with any claim under this subchapter before the Bureau, and any agreement in violation of such rules and regulations shall be void.

- (b) Use of State and local administrative and investigative assistance. In making determinations Under section 3796 of this title, the Bureau may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Bureau.
- (c) Use of funds to conduct appeals of claims. Notwithstanding any other provision law, the Bureau is authorized to use appropriated funds to conduct appeals of public safety officers' death and disability claims.